

BEFORE THE  
Federal Communications Commission **RECEIVED**  
WASHINGTON, D.C.

JUN 25 1999

In the Matter of )  
Cellular Telecommunications Industry )  
Association's Petition for Forbearance from )  
Commercial Mobile Radio Services Number )  
Portability Obligations )  
and )  
Telephone Number Portability )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WT Docket No. 98-229

CC Docket No. 95-116

**OPPOSITION TO PETITIONS FOR RECONSIDERATION OF  
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

**CELLULAR TELECOMMUNICATIONS  
INDUSTRY ASSOCIATION**

Michael F. Altschul  
Vice President, General Counsel  
Randall S. Coleman  
Vice President for  
Regulatory Policy and Law  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 785-0081

Its Attorneys

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## TABLE OF CONTENTS

	Page
I. INTRODUCTION AND SUMMARY .....	1
II. THE COMMISSION PROPERLY APPLIED THE REQUIREMENTS OF SECTION 10 TO CONCLUDE THAT WIRELESS NUMBER PORTABILITY IS NOT NECESSARY FOR COMPETITION, CONSUMER PROTECTION, AND PROTECTION OF THE PUBLIC INTEREST .....	3
A. Section 10 Was Enacted To Allow The Market To Be Regulated By Competitive Pressures As Opposed To Less Efficient Regulatory Mandates. ....	3
B. The Commission Correctly Determined That Consumers Of CMRS Services Are Better Served By The Market Than By Regulatory Fiat. ....	6
C. The Commission Properly Considered And Rejected TRA's Wireless Number Portability Proposal. ....	12
III. CONSIDERATION OF WIRELESS NUMBER PORTABILITY FORBEARANCE SHOULD BE LIMITED TO THE STATE OF COMPETITION IN THE CMRS MARKET .....	13
IV. CONCLUSION .....	18

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**OPPOSITION TO PETITIONS FOR RECONSIDERATION OF  
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The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> hereby submits its Opposition to the Petitions for Reconsideration submitted in the above captioned proceeding.<sup>2</sup> CTIA supports the Commission's decision to forbear from imposing unnecessary wireless number portability obligations on CMRS providers, consistent with the requirements of Section 10.

**I. INTRODUCTION AND SUMMARY**

Under Section 10, the Commission must forbear from applying any regulation when it determines that enforcement of the regulation 1) is not necessary to ensure just and reasonable

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

<sup>2</sup> See Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, 64 Fed. Reg. 31222 (June 10, 1999).

charges, 2) is not necessary to protect consumers, and 3) doing so is in the public interest.<sup>3</sup>

Having conducted this analysis with respect to its wireless number portability obligations, the Commission correctly concluded that it must forbear from imposing these regulations on CMRS providers at this time.

Several parties have filed petitions for reconsideration of the Commission's Order.<sup>4</sup> One petitioner, the Telecommunications Resellers Association ("TRA"), has challenged the Commission's reasoning under Section 10. TRA has also asked for reconsideration partly because it believes that the cost of wireless number portability is outweighed by its benefits. In support of its position TRA states that its methodology for implementing number portability, LRN-relay, was not properly considered by the Commission in the Order. MCI and the Pennsylvania Public Utility Commission ("PaPUC"), have requested reconsideration so that wireless number portability technology could be used in number conservation programs such as number pooling.

These petitioners seek to unnecessarily impose additional costs on facilities-based CMRS providers -- costs which eventually would be borne by consumers of CMRS services. TRA has not provided any additional basis for reconsideration not already considered and rejected by the Commission in its Order. TRA fails to demonstrate that the state of competition in the CMRS market warrants the imposition of number portability obligations on CMRS providers at this time. Furthermore, as the Commission has recognized, the requests of MCI and the PaPUC to impose

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<sup>3</sup> 47 U.S.C. § 160.

<sup>4</sup> Cellular Telecommunications Industry Association's Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability, WT Docket No. 98-229; CC Docket No. 95-116, *Memorandum Opinion and Order*, FCC 99-19; 15 Comm Reg. (P&F) 82 (rel. Feb. 9, 1999) ("Order").

number pooling on CMRS providers are more appropriate for consideration in those proceedings which are specifically addressing number conservation considerations.

**II. THE COMMISSION PROPERLY APPLIED THE REQUIREMENTS OF SECTION 10 TO CONCLUDE THAT WIRELESS NUMBER PORTABILITY IS NOT NECESSARY FOR COMPETITION, CONSUMER PROTECTION, AND PROTECTION OF THE PUBLIC INTEREST.**

TRA has requested reconsideration of the Order because it believes that the Commission's Section 10 analysis relied too heavily on the existence of competition in the CMRS market as a basis for forbearing from burdensome number portability regulations. Specifically, TRA puts forth the proposition that under Section 10 "[t]he Commission cannot simply rely on the existence of some additional market entry to determine that the added competitive pressure that would flow from number portability is unnecessary. There is no such thing as 'enough' competition."<sup>5</sup>

TRA's argument completely overlooks both the language and the spirit of Section 10, which, under TRA's reasoning, could never be invoked because there could never be "enough competition" to forbear. TRA argues without support that there would be more competition with number portability in place and therefore forbearance is not warranted. The question under Section 10, however, is not whether there would be any incremental benefit from enforcing existing regulations, as TRA contends, but whether the existing regulation is necessary in light of the competitive operation of the marketplace. If not, then the Commission must forbear.

**A. Section 10 Was Enacted To Allow The Market To Be Regulated By Competitive Pressures As Opposed To Less Efficient Regulatory Mandates.**

The terms of Section 10 directly contradict TRA's argument that there is no such thing as enough competition to forbear. Indeed, Congress anticipated that competition in a given market

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<sup>5</sup> TRA Petition for Reconsideration at 8 (filed May 27, 1999) ("TRA Petition").

would be the catalyst for satisfying the first two prongs of Section 10, namely just and reasonable rates and consumer protection. Congress also provided that the Commission's consideration of the public interest under the third prong must include a determination as to whether forbearance would "promote competitive market conditions, including the extent to which such forbearance will enhance competition . . . [and] If the Commission determines that such forbearance will promote competition . . . that determination may be the basis for a Commission finding that forbearance is in the public interest."<sup>6</sup> As a result, Section 10 is not applicable only in markets of perfect competition as TRA's petition argues. Rather, it is to be invoked where a certain level of competition exists to ensure just and reasonable rates and to protect consumers, *i.e.*, workable competition. It is also clear in Section 10 that it is in the public interest to promote further competition through forbearance. This reading is entirely consistent with a premise prevalent throughout the 1996 Act -- competition, where it exists, will better serve consumers than regulation.<sup>7</sup>

The legislative history of Section 10 confirms that Congress intended the Commission to utilize its authority to forbear in those instances where there is in fact enough competition to replace regulation while realizing the same objectives of regulation. Both the House and Senate Reports, which had similar forbearance provisions, make this point clear. The House Report states that "[g]iven that the purpose of this [1996 Act] legislation is to shift monopoly markets to

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<sup>6</sup> 47 U.S.C. § 160(b) (emphasis added).

<sup>7</sup> See "Wireless Bureau Charts Reactive Role," Mobile Phone News, May 3, 1999, at 6 (noting that FCC Wireless Telecommunications Bureau Chief Thomas Sugrue's vision of wireless regulation is one of deregulation and streamlining. Mr. Sugrue expressed his belief that the Commission "should see evidence of market failure before [it] intervene[s].").

competition as quickly as possible, the Committee anticipates this forbearance authority will be a useful tool in ending unnecessary regulation."<sup>8</sup> The Senate Report further clarifies that the Commission should "consider whether forbearance will promote competitive market conditions -- including the extent it will enhance competition among providers of telecommunications services."<sup>9</sup>

When examined in this light, it is apparent that Section 10 was enacted to remove regulatory impediments so as to further competition, where workable competition, not perfect competition, exists in the market.<sup>10</sup> As the record in this proceeding shows, the level of competition that exists in the CMRS industry fully serves to ensure just and reasonable rates and to protect consumers. The market is workably competitive, meeting the standards set forth in Section 10. Moreover, as the Commission noted, forbearing from number portability is in the public interest because it would promote competition by "giv[ing] CMRS carriers greater flexibility . . . to complete network buildout, technical upgrades, and other improvements that are likely to have a more immediate impact on enhancing service to the public and promoting competition in the telecommunications marketplace."<sup>11</sup>

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<sup>8</sup> H.R. Rep. No. 104-204, pt. 1, at 89 (1995). The fact that Congress believes that the Commission's forbearance authority should be used to end unnecessary regulation supports GTE's contention that the Commission improperly narrowed its forbearance decision in the Order. See GTE Petition for Reconsideration at 5-11.

<sup>9</sup> S. Rep. No. 104-23, at 50 (1995).

<sup>10</sup> See GTE Petition for Reconsideration at 11-12 (filed May 27, 1999) (noting that "Section 10 was an integral part of Congress's deregulatory goals").

<sup>11</sup> Order at ¶ 25.

TRA is left with nothing else but to argue for a heightened standard for Section 10 forbearance and to argue that the CMRS market is not perfectly competitive because it is clear that the level of competition in the industry satisfies the existing requirements of Section 10. As Chairman Kennard recently noted, CMRS is "one of the greatest success stories of competition."<sup>12</sup> The Fourth Annual Report on the State of Wireless Competition confirms that competition has increased in the last year (without number portability) and that "[t]his increased competition has meant lower prices and more choices for American consumers."<sup>13</sup>

**B. The Commission Correctly Determined That Consumers Of CMRS Services Are Better Served By The Market Than By Regulatory Fiat.**

The principle of number portability is rooted in the belief that the inability to retain one's telephone number when switching carriers presents an impediment to competition. In the 1996 Act, Congress determined that this barrier was sufficiently extensive as to warrant the requirement that LECs deploy number portability technology in wireline networks.<sup>14</sup> As the Commission recognized in the Number Portability First Report and Order, Congress explicitly excluded CMRS providers from the requirement that they offer number portability.<sup>15</sup> The Commission, however,

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<sup>12</sup> Press Statement Of Chairman William E. Kennard on "Wireless Day," June 10, 1999.

<sup>13</sup> FCC Adopts Fourth Annual Report on State of Wireless Competition, News Release, June 10, 1999. As the Commission recently confirmed, "the average price for mobile telephony has continued to fall substantially. . ." with one study estimating the average per minute decrease for mobile telephone prices at 18 percent. Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Fourth Report, at 21 (rel. June 24, 1999).

<sup>14</sup> See 47 U.S.C. § 251(b)(2); H.R. Rep. No. 104-204, pt. 1, at 72 (1995) ("The ability to change service providers is only meaningful if a customer can retain his or her local telephone number.").

<sup>15</sup> Telephone Number Portability, CC Docket No. 95-116, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352 at ¶ 152 (1996) (Number



went on to conclude that the marketplace barriers which could only be overcome in the wireline market through number portability, apparently persisted in wireless markets. Thus, it decided to require wireless number portability to promote competition between carriers.<sup>16</sup>

The economic description of this phenomenon is the "lock-in" effect. The lock-in effect persists when a customer faces high switching costs -- high enough that the cost of switching dissuades the customer from selecting the services of a competitor, even where those services may be more desirable.

Number portability requirements were adopted to address the perceived switching costs of changing one's telephone number when one changes service providers. The theory maintains that consumers will not switch their telephone service providers if they are required to change their phone numbers because it is both inconvenient and financially burdensome. In other words, the extent to which consumers invest in their telephone numbers, both personally and financially, outweighs the benefits that may be realized by switching service providers. By removing a barrier to customer switching in those markets where customers value their telephone numbers, number portability is intended to foster competition among service providers.

Believing that maintaining one's telephone number was an impediment to switching wireless carriers, the Commission in 1996, even before PCS had been deployed in most markets, determined that number portability in the CMRS industry would foster increased competition among CMRS carriers and promote future competition between CMRS providers and wireline

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Portability First Report and Order"). (The Commission relied upon its independent jurisdiction over CMRS, separate from Section 251, to require wireless number portability in the top 100 MSAs.).

<sup>16</sup>

Id.

services.<sup>17</sup> The Commission reasoned that number portability would promote competition in the CMRS and wireline markets because it would remove the requirement that a customer change numbers when switching carriers. For PCS carriers especially, the Commission viewed number portability as a necessary prerequisite to meaningful CMRS competition.<sup>18</sup> Almost three years later TRA relies on these preliminary and outdated Commission conclusions rather than accept the Commission's most recent pronouncements on the state of competition in the CMRS market as it exists without number portability.<sup>19</sup>

The Commission has since recognized in the Order that the value of number portability to wireless consumers may have been overstated. If there were in fact lock-in in the wireless industry as the Commission had anticipated in 1996, market analysis would illustrate that the lack of number portability is preventing consumers from switching carriers, thereby stifling competition especially from new entrants. The evidence, however, proves otherwise. Recent estimates place

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<sup>17</sup> Id. at ¶¶ 154-160.

<sup>18</sup> Id. at ¶ 159.

<sup>19</sup> See TRA Petition at 4-5 ("The Commission also recognized in its 1996 Number Portability Order that prompt implementation of wireless number portability is essential to the achievement of a truly competitive wireless market. . . . The ease with which consumers can switch carriers post-number portability forces carriers to reduce their rates and improve their service offerings in order to attract and retain customers.") (citing the Number Portability First Report and Order at ¶¶ 157-160).

the average wireless churn rate at nearly 40 percent.<sup>20</sup> By the year 2002, nearly 40 million subscribers are expected to change carriers at least once a year.<sup>21</sup>

The Commission also made it clear in the Order that consumers place little value in maintaining their telephone numbers when switching carriers. Specifically, it concluded

that implementing number portability . . . is likely to have a relatively small positive impact on wireless-to-wireless competition in the near term, because number portability is not a current priority for wireless consumers. . . . The record also yields little evidence that wireless consumers identify the ability to retain their telephone number as a major factor in their decision to switch wireless carriers. . . . Further, the high churn rates associated with wireless carriers suggest that the lack of wireless number portability currently is not a barrier to customers switching wireless carriers.<sup>22</sup>

TRA provides no contrary evidence to support the notion that lock-in is present in this industry. In response to the Commission's conclusions, which were based on the record before it, TRA simply contends that "[i]t is a matter of common sense that consumers would prefer to be able to keep their wireless telephone numbers when changing wireless carriers."<sup>23</sup> Immediately following this assertion TRA contradicts itself by stating that "[t]he rapid rate of churn in this industry suggests that the lack of number portability causes significant inconvenience for consumers."<sup>24</sup> Apparently, the "common sense" to which TRA is referring must not be that

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<sup>20</sup> Jean Schmitt, "Churn: Can Carriers Cope? Industry Trend or Event," Telecommunications, Feb. 1999; see Phillip Redmen, "Declining Service Prices Signal Carriers Should Reevaluate Subsidies," RCR, Feb. 8, 1999 (noting that "churn is at its highest levels").

<sup>21</sup> Susan O'Keefe, "Wireless Defection Rates Skyrocketing; PCS, Cellular Customers Change Carriers," Telecommunications, March 1, 1999.

<sup>22</sup> Order at ¶ 34 (citations omitted).

<sup>23</sup> TRA Petition at 10.

<sup>24</sup> Id.

common because if consumers were significantly inconvenienced by the lack of number portability, the rapid rate of churn, which TRA acknowledges, would not exist.

Perhaps recognizing that lock-in is not a problem in the industry, TRA attempts to shift the issue from switching costs to market concentration, in an effort to argue that the CMRS industry is not competitive. TRA relies on statements submitted by the PCIA which contend that the CMRS market is highly concentrated.<sup>25</sup> As an initial matter, CTIA disagrees with PCIA's analysis. In the spectrum cap proceeding, CTIA noted that PCIA failed to provide any evidence documenting that CMRS carriers are exercising market power, *i.e.*, the ability, whether acting alone or in concert with other firms, to raise prices or to restrict output. The mere fact that new entrants have not finished building out their networks does not establish market power on the part of incumbent carriers.<sup>26</sup> Moreover, PCIA has since apparently recanted its earlier statements. Recently it argued before the Commission that "competition in the mobile telephony sector is growing tremendously, with 87 percent of the nation's POPs having three or more operators providing mobile wireless service and over 68 percent of the nation's POPs having four to six providers. This exponential growth in competition is due to the entrance of new competitors."<sup>27</sup>

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<sup>25</sup> Id. at 9 (quoting Reply Comments of the Personal Communications Industry Association filed in 1998 Biennial Regulatory Review of Spectrum Aggregation Limits for Wireless Telecommunications Carriers, WT Docket No. 98-205, et al. (filed Feb. 10, 1999)).

<sup>26</sup> See Reply Comments of CTIA at 9, 1998 Biennial Regulatory Review of Spectrum Aggregation Limits for Wireless Telecommunications Carriers, WT Docket No. 98-205, et al., (filed Feb. 10, 1999).

<sup>27</sup> Comments of PCIA at 5, Policy and Rules Concerning the Interstate Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96-61, (filed May 27, 1999) (citing Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Third Report (rel. June 11, 1998)).

If the lack of number portability were operating as an impediment to competition, new entrants would not be as successful as the data reflect.<sup>28</sup>

Regardless of the merits of PCIA's previous assertions, TRA's reliance on market concentration as a basis for requiring number portability is a red herring. Number portability will only resolve market concentration issues if customers are not free to move between carriers, *i.e.*, their switching costs are high. It is for this reason that such obligations were applied to the monopoly wireline market.<sup>29</sup> Because lock-in is not present in the competitive CMRS market, data regarding market concentration for the purpose of imposing number portability are irrelevant. Although TRA would like the Commission to believe otherwise, without any support for its position, market share, even a putative demonstration of market concentration, does not equate with high switching costs.<sup>30</sup> In the end, TRA is forced to concede that it "has never argued that lack of number portability is a complete barrier to consumers switching," yet it relies instead on the unexplained and unsubstantiated assertion that "it certainly is a real barrier."<sup>31</sup> Without more, the Commission should not reconsider its decision to further competition through deregulation.

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<sup>28</sup> See "PCS Subscribership Doubles in One Year," Telecommunications Reports: Wireless News, May 6, 1999, at 15 (noting that PCS subscribership increased by 220% in 1998, taking 36% of all new subscribers in the industry).

<sup>29</sup> See 47 U.S.C. § 251(b)(2).

<sup>30</sup> See, e.g., Carl Shapiro and Hal R. Varian, Information Rules: A Strategic Guide to the Network Economy, at 149-151 (1999) (noting that Cisco Systems supplies 80 percent of the routers on the Internet, yet its "value by and large is not based on its ability to earn profits from a captive installed based of customers").

<sup>31</sup> TRA Petition at 15.

**C. The Commission Properly Considered And Rejected TRA's Wireless Number Portability Proposal.**

In addition to its flawed Section 10 analysis, TRA contends that the Commission disregarded its alternative approach to implementing wireless number portability -- the proposed "LRN-relay" methodology.<sup>32</sup> It accuses the Commission of failing to "grapple" with the technical viability of its approach which was only submitted to the Commission in an *ex parte* filed on October 22, 1998.<sup>33</sup> These assertions, however, are completely baseless and should be rejected by the Commission.

In the Order the Commission explained precisely why it decided against requiring wireless carriers to implement LRN-relay. First, the Commission reiterated its position established several years earlier that it would not mandate the technical requirements for number portability, instead leaving such decisions to the experts in the industry.<sup>34</sup> The Commission also made clear that the industry had begun working on number portability in 1996, when CTIA established the working group for number portability, and that TRA did not present its proposal until over two years later.<sup>35</sup> The Commission concluded that "[e]ven if TRA's proposal is technically viable, we see no reason to compel the wireless industry at this stage in the LNP development process to abandon its substantial efforts to date in favor of a different methodology."<sup>36</sup> Finally, the Commission did indeed "grapple" with the technical viability of TRA's plan. Specifically, it expressed serious

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<sup>32</sup> TRA Petition at 6.

<sup>33</sup> See id. at 14; Order at ¶ 31.

<sup>34</sup> Order at ¶ 32.

<sup>35</sup> Id. at ¶ 33.

<sup>36</sup> Id.

doubt as to "whether the LRN relay approach could realistically be submitted to the industry standards bodies, developed, and fully implemented by March 2000, as TRA contends."<sup>37</sup>

TRA may not be satisfied with the Commission's decision, based on the record before it, not to impose unnecessary costs on TRA's competitors, but it cannot argue that its late-filed proposal was not properly considered by the Commission. TRA offers no additional basis in its Petition for the Commission to reconsider its decision rejecting a mandate for LRN-relay.

### **III. CONSIDERATION OF WIRELESS NUMBER PORTABILITY FORBEARANCE SHOULD BE LIMITED TO THE STATE OF COMPETITION IN THE CMRS MARKET.**

Both MCI and the PaPUC request that the Commission reconsider its decision in the Order because they contend that forbearing from enforcing wireless number portability will have detrimental effects on state efforts to stem the tide of telephone number exhaust.<sup>38</sup> Namely, without wireless number portability technology in place, wireless carriers will be unable to participate in state administered number pooling programs. The PaPUC goes so far as to request that "the Commission should clarify that this forbearance also constitutes a waiver of the wireless carriers' right to protest and impede conservation methods which use LNP technology."<sup>39</sup> Furthermore, MCI requests that the Commission order detailed wireless industry number portability preparation reports.<sup>40</sup>

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<sup>37</sup> Id.

<sup>38</sup> See MCI Petition for Reconsideration at 3 (filed May 27, 1999) ("MCI Petition"); Pennsylvania Public Utility Commission Petition for Reconsideration at 3 (filed May 27, 1999) ("PaPUC Petition"); see also TRA Petition at 5.

<sup>39</sup> PaPUC Petition at 7.

<sup>40</sup> See MCI Petition at 3-5.

The Commission should decline to expand the scope of its forbearance review to matters outside the competitive considerations it has already made. As noted above, the Commission's forbearance authority must be invoked in those instances where the three requirements of Section 10 are satisfied. Additionally, the Commission should not overlook the fact that number portability was established to resolve an anticipated failure of competition in the market. The record before the Commission does not adequately address the use of number portability as a tool for number conservation.

Confusing the competitive necessity of number portability with arguments regarding numbering administration is not only inappropriate, but incorrect as well. The records in other proceedings concerning numbering authority demonstrate that alternative numbering administration mechanisms are not as valuable as the petitioners claim, nor are they necessary for CMRS providers who already distribute numbers in a highly efficient manner. To the extent that the Commission believes that CMRS providers should participate in number pooling programs, however, this decision should be based on the more complete record the Commission is presently compiling in its Numbering Resource Optimization proceeding.<sup>41</sup> The Commission there has specifically sought comment on this matter. It has asked commenters to discuss whether it should accelerate CMRS number portability obligations in light of optimization efforts which may include number pooling.<sup>42</sup> Until that decision is made, the Commission should not reconsider its decision in the Order.

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<sup>41</sup> Numbering Resource Optimization, CC Docket No. 99-200, *Notice of Proposed Rulemaking*, FCC 99-122 (rel. June 2, 1999).

<sup>42</sup> Id. at ¶ 168.



Moreover, implicit in its request, the PaPUC seems to contend that it has authority to require CMRS carriers to participate in its number conservation efforts. The Commission has stated on several occasions, however, that such authority rests with it, not with state regulatory agencies. In response to efforts by certain states to adopt numbering administration programs which were discriminatory against CMRS providers, the Commission reasserted its jurisdiction over number administration. Most recently in a decision prohibiting the PaPUC from implementing number pooling, the Commission made clear that it alone has jurisdiction over the distribution of telephone numbers and that states could not require CMRS carriers to participate in number pooling.<sup>43</sup>

Similarly, MCI suggests that the Commission reconsider its decision because of the imminent development of Calling Party Pays ("CPP") in this nation.<sup>44</sup> CTIA does not dispute that CPP could affect consumers' interest in maintaining their telephone numbers when switching carriers. The Commission, however, has only recently begun to seriously consider the issues concerning CPP.<sup>45</sup> With more questions than answers at this time surrounding CPP, including the timing of deployment and consumer acceptance of this service, the Commission should not use this as a reason to grant MCI's Petition.

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<sup>43</sup> Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, NSD File No. L-97-42; CC Docket No. 96-98, *Memorandum Opinion and Order and Order on Reconsideration*, 13 FCC Rcd. 19009 (1998)

<sup>44</sup> MCI Petition at 7; see also TRA Petition at 4.

<sup>45</sup> FCC Adopts Declaratory Ruling and Notice of Proposed Rulemaking On Calling Party Pays, News Release, June 10, 1999.

Finally, MCI proposes that the wireless industry assume the additional cost of preparing quarterly number portability preparation reports to submit to the Commission.<sup>46</sup> It contends that "the wireless industry simply does not understand what is being expected or even asked of it."<sup>47</sup> MCI proceeds to recommend that the first report outline the procedures for implementing number portability by December 31, 1999, without even acknowledging that CMRS providers do not have to implement number portability until March 2002.<sup>48</sup> The Commission should reject this proposal which finds no basis of support in the record.<sup>49</sup>

Contrary to MCI's assertions, CTIA stands by the work of the industry's number portability working group and the strides it has made towards developing wireless number portability solutions. As CTIA has shown previously, the industry began taking steps to meet the Commission's deadline prior to the adoption of the First Report and Order. The process, though, by which nationwide number portability will be implemented, *i.e.* MIN/MDN split, is significantly challenging.<sup>50</sup> The Commission agreed in the Order.<sup>51</sup>

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<sup>46</sup> Although MCI apparently seeks to minimize the burdens of its request by limiting it to the largest carriers in the CMRS industry, MCI and the Commission are well aware that number portability must be deployed by all carriers at the same time in order to support nationwide roaming. Thus, MCI's request is in fact an additional burden that would apply to all carriers -- large and small -- regardless of their resources.

<sup>47</sup> MCI Petition at 5.

<sup>48</sup> Id.

<sup>49</sup> MCI concedes that this issue is not discussed in the record and before the Commission can impose any reporting requirement it would first have to seek public comment on the matter. Id.

<sup>50</sup> See Declaration of Arthur L. Prest, attached to Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association (filed Nov. 24, 1997).

<sup>51</sup> Order at ¶¶ 27-29.

In addition to the fact that the state of competition in the industry is such that number portability is unnecessary at this time, the Commission also recognized that implementing number portability would be a costly diversion of resources which could be better allocated to "other initiatives that could have a more immediate impact on competition, such as network buildout."<sup>52</sup> MCI now requests that the Commission disregard its concern over the diversion of limited resources and impose an additional burden on all wireless carriers, even though it elected to forbear from imposing these regulatory obligations. As noted above, Section 10 was intended to be used as a tool to minimize the regulatory burdens on an industry which is subject to marketplace competition. MCI's proposal goes against these deregulatory notions, in effect asking the Commission to take two steps forward through forbearance, while taking one step back. It makes no sense, however, to impose these reporting obligations on the wireless industry. If the Commission or interested parties wish to monitor the industry's progress, they can follow the open standards process.

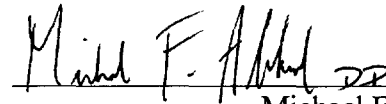
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<sup>52</sup> Id. at ¶ 38.

#### IV. CONCLUSION

For these reasons, CTIA respectfully requests that the Commission deny the Petitions for Reconsideration filed by TRA, MCI, and the PaPUC.

Respectfully submitted,  
**CELLULAR TELECOMMUNICATIONS  
INDUSTRY ASSOCIATION**



Michael F. Altschul  
Vice President, General Counsel

Randall S. Coleman  
Vice President for  
Regulatory Policy and Law

1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 785-0081

Its Attorneys

June 25, 1999

90136

## CERTIFICATE OF SERVICE

I, Rosalyn Bethke, hereby certify that a copy of the foregoing Opposition to Petitions for Reconsideration of The Cellular Telecommunications Industry Association was delivered by first-class mail or by hand delivery, as indicated, upon the following:

Magalie Roman Salas\*  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
12th Street Lobby, TW-A325  
Washington, DC 20554

Stephen E. Gorka  
Frank B. Wilmarth  
Bohdan R. Pankiw  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

John F. Raposa  
GTE Service Corporation  
600 Hidden Ridge, HQE03J27  
P.O.Box 152092  
Irving, TX 75015-2092

Andre J. Lachance  
GTE Service Corporation  
1850 M Street, N.W.  
Washington, DC 20036

Linda L. Oliver  
Counsel for Telecommunications Resellers  
Association  
Hogan & Hartson, L.L.P.  
555 13th Street, N.W.  
Washington, DC 20004

Anne F. La Lena  
Henry G. Hultquist  
MCI WorldCom, Inc.  
1801 Pennsylvania Avenue, N.W.  
Washington, DC 20006

David Gusky  
Steven Trotman  
Telecommunications Resellers Association  
1401 K Street, N.W.  
Washington, DC 20005

  
Rosalyn Bethke

\* By Hand Delivery

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